



[4910-22]

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in West Virginia and Maryland

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitations on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal Agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, US 220 NHS Corridor between Interstate 68 (I-68) and Corridor H in Allegany County, Maryland and Grant, Hardy, Hampshire and Mineral Counties, West Virginia. The Federal actions, taken as a result of a tiered environmental review process under the National Environmental Policy Act, 42 U.S.C. 4321-4351 (NEPA), and implementing regulations on tiering, 40 CFR 1502.20, 40 CFR 1508.28, and 23 CFR Part 771, determined certain issues relating to the proposed projects. Those Tier 1 decisions will be used by Federal agencies in subsequent proceedings, including decisions whether to grant licenses, permits, and approvals for highway and transit projects. Tier 1 decisions also may be relied upon by State and local agencies in proceedings on the proposed projects.

DATES: By this notice, the FHWA is advising the public that it has made decisions that are subject to 23 U.S.C. 139(l)(1) and are final within the meaning of that law. A claim seeking judicial review of the Tier 1 Federal agency decisions on the proposed highway will be barred unless the claim is filed on or before [Insert date 150 days after publication

in the Federal Register]. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Jason Workman, Director, Office of Program Development, Federal Highway Administration, 700 Washington Street, E., Charleston, WV 25301; telephone: (304) 347-5928; email: [jason.workman@dot.gov](mailto:jason.workman@dot.gov) or Ben Hark, Environmental Section Head, Engineering Division, West Virginia Department of Transportation, Division of Highways (WVDOH), State Capitol Complex, Building 5, 1900 Kanawha Boulevard, East, Charleston, WV 26305; telephone: (304) 558-2885; email: [ben.l.hark@wv.gov](mailto:ben.l.hark@wv.gov).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has approved a Tier 1 Final Environmental Impact Statement (FEIS) and issued a Record of Decision (ROD) in connection with a proposed highway project in Maryland and West Virginia: US 220 NHS Corridor between I-68 and Corridor H in Allegany County, Maryland and Grant, Hardy, Hampshire and Mineral Counties, West Virginia. The project will provide a four-lane, partially controlled highway that begins south of I-68 near LaVale, Maryland and extends southwest to connect with Corridor H near Scherr, West Virginia. It would connect the communities of LaVale, Cresaptown and McCoole in Maryland and Keyser and New Creek in West Virginia. The proposed highway will be on both new and existing alignment.

Decisions in the FHWA Tier 1 ROD that have final approval include, but are not limited to, the following:

- a. Project Purpose and Need – Discussed in FEIS Chapter 1.0, Sections 1.3 and 1.4.

- b. Range of Alternatives for Analysis – Discussed in FEIS Chapter 2.0, Section 2.2.
- c. Selection of the Preferred Corridor to be Carried Forward into Tier 2 – Corridor B with the possibility of using the northern spur of Corridor D that connects I-68 in Maryland has been identified as the Preferred Corridor that will be carried forward into Tier 2. The northern spur of Corridor D begins on US 220 just south of Maryland State Route 53 (MD 53) and terminates at I-68. Both these termini will be carried forward into Tier 2 to determine which would best meet the project's purpose and need, be the least environmentally damaging and operate most efficiently. Advancing the northern spur of Corridor D in Maryland as part of the Preferred Corridor's possible connection to I-68 will allow flexibility in developing a new I-68 Interchange while providing additional opportunities for avoiding socioeconomic, natural and cultural resources and minimizing the potential impacts of future alignments (see FEIS Chapter 2.0, Section 2.11; FEIS Chapter 6.0, Section 6.1; and ROD Sections 1.0, 1.3, and 2.7).
- d. Alternatives Eliminated from Further Study – The alternatives that will not be considered any further include, but are not limited to, those identified in the Tier 1 FEIS as Corridors A, C, D, E and the Crossover Corridors which combined portions of Corridors B, C and D (see FEIS Chapter 2.0, Sections 2.9 and 2.10; and ROD Section 2.0).
- e. The project may result in a program of individual transportation improvement projects throughout the US 220 Preferred Corridor, with several projects having independent utility and serving different logical termini. However, the design criteria to be carried forward into Tier 2 will be based on a four-lane, partially controlled

highway. The WVDOH and Maryland State Highway Administration (MDSHA) will independently advance Tier 2 NEPA within their respective states. In West Virginia, a typical section will require a minimum width of 136 feet and, in Maryland, the typical section will require a minimum width of 140.5 feet. The highway width may increase to approximately 300 feet to accommodate construction of the four-lane facility in mountainous terrain (see ROD Section 1.3).

Interested parties may consult the ROD and FEIS for further information on each of the decisions described above.

The Tier 1 actions by the Federal agencies, and the laws under which such actions were taken, are described in the FEIS approved April 2, 2014, the ROD approved July 21, 2014, and in other documents in the FHWA project records. The scope and purpose of the Tier 1 FEIS are described in Chapter 1.0 of the FEIS. The FEIS, ROD, and other documents in the FHWA project file are available by contacting the FHWA or the WVDOH at the addresses provided above. The FEIS and ROD also are available online at

<http://www.transportation.wv.gov/highways/engineering/comment/us220/Pages/default.aspx>. OR

<http://apps.roads.maryland.gov/WebProjectLifeCycle/ProjectInformation.aspx?projectno=AL613111#>

This notice applies to all Federal agency Tier 1 decisions that are final within the meaning of 23 U.S.C. 139(l)(1) as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]

2. Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].
3. Endangered Species Act [16 U.S.C 1531-1544]
4. National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) et seq].
5. Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303 and 23 U.S.C. 138].
6. Clean Air Act [42 U.S.C. 7401-7671(q)].

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1), as amended by Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21), Public Law 112-141, § 1308, 126 Stat. 405 (2012).

Issued on: August 27, 2014.

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